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## MEMORANDUM

**To:** Senate Committee on Rules and Operations of the Senate

**From:** General Statutes Commission

**Re:** HB 92 (GSC Technical Corrections 2013) (PCS)

**Date:** July 22, 2013

### General Comments

Part I of the proposed committee substitute for this bill contains corrections of a technical nature to the General Statutes and session laws that are recommended by the General Statutes Commission. These amendments correct typographical, punctuation, redlining, and other obvious drafting and stylistic errors, make conforming changes, clarify an unintentional ambiguity, and update references and formatting.

### Specific Comments

**Section 1** makes a conforming change to the **title of Article 9 of Chapter 7A of the General Statutes**, from "Judicial Districts" to "Prosecutorial Districts." The article does not in fact deal with judicial districts but with district attorneys. The original title was "Solicitors and Solicitorial Districts." In 1973, the General Assembly replaced "solicitor" with "district attorney" but changed "solicitorial district" to "judicial district." See 1973 Reg. Sess. c. 47. Two years later, the General Assembly amended Article 9 to change "judicial district" to "prosecutorial district" throughout the article but failed to make a conforming change to the article title. See 1975 Reg. Sess. c. 956. Since that time, the title of Article 9 has continued to read "Judicial Districts" while the text of the article refers to "prosecutorial districts."

**Section 2** amends **G.S. 13-1** to change the reference to a specific State agency having jurisdiction over the person of an inmate, probationer, or parolee to a generic reference. The amendment (i) makes it clear that a discharge by a predecessor agency continues to be included and (ii) eliminates the need to make a conforming change to this section if there is a future reorganization of State government.

**Subsections 3(a) and 3(b)** make related amendments to **G.S. 14-17(a)** and **G.S. 15A-1340.17(c)**, respectively, to conform to other changes in the law made by S.L. 2012-148. That act provided new sentencing procedures for minors that included a possible sentence of life imprisonment with parole in cases where the minor would formerly have been subject to a mandatory sentence of life without parole. The amendment to G.S. 14-17(a) replaces a reference

to the former mandatory sentence for minors who commit a first degree murder with a reference to the part of the General Statutes that contain the new sentencing procedures. The amendment to G.S. 15A-1340.17(c) conforms a similar reference in the felony sentencing chart by adding a reference to life imprisonment with parole "as Established by Statute."

**Section 4** amends **G.S. 15A-145.5(c)** to remove an incorrect cross-reference that would not actually be necessary to the meaning of the subsection if it were corrected. The introductory paragraph of G.S. 15A-145.5(c) refers to filing a petition to expunge "a nonviolent misdemeanor or nonviolent felony conviction" by a person who was convicted of a "nonviolent misdemeanor or nonviolent felony" that is eligible for expunction under "subsection (b) of this section." First, the intended reference was to subsection (a), which defines the terms "nonviolent misdemeanor" and "nonviolent felony." Second, the sentence does not need both references to "nonviolent misdemeanor" and "nonviolent felony"; the second reference is essentially duplicative.

**Section 4.1** amends **G.S. 19A-2**, as amended by S.L. 2013-3, to correct a reference to the court in which actions under Article 1 (Civil Remedy for Protection of Animals) of Chapter 19A of the General Statutes are brought. Other sections in Article 1 make it clear that the district court is the proper court for an action under that article, not the superior court. In addition, the section corrects the reference to "Chapter" to "Article" to reflect the fact that it applies only to Article 1 and not the entire chapter.

**Section 4.2** amends **G.S. 20-171.19(a)** to clarify that the subsection refers to operating an all-terrain vehicle when such operation is otherwise lawful.

**Section 5** amends **G.S. 20-183.2(a1)** in two ways. First, it corrects a citation. The special license plate for historical vehicles was formerly in G.S. 20-79.4(b)(63), but it was moved and is now in G.S. 20-79.4(b)(88). Second, the amendment changes "defined" to "described" to more accurately reflect what is done in G.S. 20-79.4(b)(88). G.S. 20-79.88 is not actually a definition, although it does set out the qualifications for a "historical vehicle."

**Section 6** amends **G.S. 28A-2-6(e)** to correct a typographical error in the punctuation. The reference to "Rules 4.5, 6(a) ... of ... the Rules of Civil Procedure" is incorrect. There is no "Rule 4.5." The period should have been a comma and the sentence should read, "Rules 4, 5, 6(a) ... of ... the Rules of Civil Procedure."

**Section 6.1** amends **G.S. 62-333** to update a reference to the "Executive Budget Act" to the "State Budget Act," since the latter was replaced by the former in S.L. 2006-203. The section also makes the reference to the designee of the "Chief Personnel Officer" of a public utility gender neutral and corrects the punctuation of that phrase by inserting necessary commas.

**Subsections 7(a), 7(b), and 7(c)** amend **G.S. 74-54(b), 54.1(c), and 67**, respectively, to conform references to the Mining and Energy Commission. In these three statutes, the full name of the Commission is used. It is, however, unnecessary to use anything but "Commission" in these places, because the definitions section (G.S. 74-49) in the article in which these statutes appear (Article 7 of Chapter 74 of the General Statutes) defines "Commission" to mean the North Carolina Mining and Energy Commission. This is a common drafting device used to avoid the

need to repeat the full name throughout the article. Other sections in this article use the term "Commission" without qualification. Replacing the Commission's full name in these three statutes with the defined term conforms to usage in the rest of the article.

In addition, subsection 7(b) conforms the form of the date from English style to American style in G.S. 74-54.1(c), and subsection 7(c) makes a stylistic update in G.S. 74-67 by replacing the older "said" with "the."

**Section 8** amends **G.S. 90B-3** to move the definition of the term "Licensed Clinical Social Worker" to its proper location in alphabetical order.

**Section 9** updates the citation style in **G.S. 115D-12(a)** and **(b)**.

**Section 9.1** amends **G.S. 116-201(b)(1)** to update the style of the reference to Article 23 and to delete as unnecessary the list of sections contained in that article, which in fact has been expanded so that it now includes G.S. 116-201 through G.S. 116-209.55.

**Section 10** conforms the catchline of **G.S. 120-12.1** to the content of the section by changing the reference to "three" other departments to "two" others. The section formerly required reports from the Judicial Department and the Departments of Correction, Justice, and Crime Control and Public Safety. When the latter two departments were merged with the Department of Juvenile Justice to create the Department of Public Safety, the text of this section was amended to conform to the consolidation but the catchline was not.

**Section 11** permanently corrects a problem with the conjunctions in **G.S. 122C-22(a)** by modernizing the style. When subdivision (12) was added to G.S. 122C-22(a), the conjunction was not moved to match. The current preferred drafting style for lists takes care of this type of problem by eliminating conjunctions, using periods rather than semicolons, and indicating in the lead-in language whether the entries in the list are conjunctive or disjunctive.

**Section 12** amends **G.S. 136-89.210(1)** to correct a redlining error. G.S. 136-89.210 was enacted by S.L. 2008-225. Subdivision (1) was intended to be reserved for future codification, so the number (1) was included in the new section with the word "Reserved" beside it. The word "Reserved" was, however, inadvertently underlined, which had the effect of enacting that word as part of the statute. Normally, "Reserved" used in this fashion (as a placeholder) is an editorial insertion by the publisher of the General Statutes. When statutory text is later added at the reserved locations, the editorial insertion does not need to be expressly deleted (since it has not been legislatively inserted), so the customary practice is not to show it as lined out. If, however, the word "Reserved" is actually inserted by a session law, the word does later need to be expressly stricken out. There is obvious potential for confusion, since there is no way to tell from the statute itself whether "Reserved" is an editorial insertion or a legislative addition. To avoid confusion over cases when the word "Reserved" needs to be shown as stricken out and when it can simply be dropped as an editorial insertion, this amendment deletes it as a legislative insertion. Please note that the word "Reserved" will continue to appear at subdivision (1), but it will simply be the normal, editorially inserted, reserved line that does not need to be legislatively deleted.

**Section 12.1** amends the catchline of **G.S. 143B-721** to conform the reference to "chairman" to "chair." The term was changed in the body of the statute by Section 17.25(a) of S.L. 2005-276.

**Section 13** amends the introductory language of **G.S. 143B-1100(a)** to conform the introductory language's recitation of the numbers of voting and nonvoting members of the Governor's Crime Commission to the actual list set out in subsection (a).

**Subsections 14(a) and (b)** amend **G.S. 163-82.12(8b)** and **G.S. 163-166.2(b1)**, respectively. Subsection 14(a) amends G.S. 163-82.12(8b) to correct a citation. The reference to "G.S. 163-166.2(b2)" is incorrect; there is no subsection (b2) in G.S. 163-166.2. The intended reference was to G.S. 163-166.12(b2). Subsection 14(b) in turn amends G.S. 163-166.12(b1) to add a subsection catchline because all other subsections in that statute have subsection catchlines.

**Section 15** corrects a typographical error in the amendatory language of **Section 5 of S.L. 2012-11**.

**Section 16** corrects a typographical error in the amendatory language of **Section 2(b) of S.L. 2012-120**.

**Section 16.1** inserts a missing word "from" in **Section 1(b) of S.L. 2013-1** (the phrase should read, "graduating **from** high school").

**Section 16.2** amends the introductory language of **Section 2 of S.L. 2013-26** to include a reference to the session law that contains the Charter of the City of Charlotte.

**Section 16.3** corrects a typographical error in the amendatory language of **Section 3 of S.L. 2013-55**. The intended reference was to G.S. 47-29.1 rather than G.S. 47-29.

**Part II** of the bill was added by the General Assembly. The last section of this bill makes the bill effective when it becomes law.